Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13398
27 January 2014

Evaluation of the partnership for democracy in respect of the Palestinian National Council

Committee Opinion[1]
Committee on Equality and Non-Discrimination
Rapporteur: Ms Gülsün BİLGEHAN, Turkey, Socialist Group

A. Conclusions of the committee

1. The Committee on Equality and Non-Discrimination congratulates the rapporteur of the Committee on Political Affairs and Democracy, Mr Tiny Kox, on his report and supports the proposed draft resolution.

2. Resolution 1830 (2011) granting partner for democracy status to the Palestinian National Council lists key areas for strengthening democracy, the rule of law and human rights in Palestine. The committee believes that this status can be a tool for accompanying Palestine in its efforts to establish a democratic State founded on respect for the rule of law and human rights.

3. The committee wishes to draw the attention of the Palestinian authorities to the need to take concrete measures without delay to eradicate the scourge of violence against women.

B. Proposed amendment to the draft resolution

In the draft resolution, replace paragraph 9.4 with the following text: "acknowledges the efforts made, in particular by the Ministry of Women's Affairs and women's organisations, to promote the participation of women in political and public life; to fight discrimination based on gender; to ensure effective equality between women and men; and to fight gender-based violence. It expresses concern, however, at the increase of violence against women and calls on the Palestinian authorities to take resolute action against this scourge, in co-operation with civil society and more specifically women's organisations;"

C. Explanatory memorandum by Ms Bilgehan, rapporteur for opinion

1. General comments

1. I would first like to congratulate Mr Kox on his detailed progress report on the implementation of the commitments undertaken by the Palestinian National Council in its request for partnership for democracy status with the Assembly.

2. I welcome the fact that Mr Kox's report refers several times to the question of women's rights, which are among the commitments undertaken by the Palestinian National Council in October 2011. In its Resolution 1830 (2011) granting partner for democracy status to the Palestinian National Council, the

1. Reference to committee: Bureau decision, Reference 3836 of 23 January 2012. Reporting committee: Committee on Political Affairs and Democracy. See Doc. 13382. Opinion approved by the committee on 27 January 2014.

Assembly said that the following specific issues were "of key importance for strengthening democracy, the rule of law and the respect of human rights and fundamental freedoms in the Palestinian territories: … actively promoting equal opportunities for women and men in political and public life; fighting all forms of discrimination (in law and in practice) based on gender; ensuring effective equality between women and men, including as regards marriage, divorce, polygamy and inheritance law and, where necessary, initiating a process of legislative revision; fighting all forms of gender-based violence".

3. I wish to stress from the outset, as did Mr Kox, that the ongoing Israeli occupation and the refusal by Hamas to respect the successive reconciliation agreements are major obstacles to the implementation of the commitments undertaken by the Palestinian National Council. Despite the difficult circumstances, however, improvements can and must be made, particularly as regards the situation of women.

4. This opinion will therefore seek to shed further light on the most critical aspects of the situation of women in Palestine. I would like to thank Ms Suheir Azzouni, consultant on gender issues and human rights in Palestine, for having taken part in a hearing organised by the Committee on Equality and Non-Discrimination in December 2013 and for having helped to gather information. I would like also to thank the members of the Palestinian National Council's delegation to the Parliamentary Assembly for their positive approach.

2. Actively promoting equal opportunities for women and men in public and political life (commitment undertaken by the Palestinian National Council, paragraph 12.5 of Resolution 1830 (2011))

5. As there have been no parliamentary elections since 2006, women's representation in parliament has not changed since partner for democracy status was granted in October 2011. It is regrettable, moreover, that the number of women in the government fell from five to three after the last reshuffle in June 2013. The portfolios held by women are now Women's Affairs, Tourism, and Communication and Information Technologies.

6. In local elections held in the West Bank in autumn 2012, 25% of candidates were women as a result of the quota system introduced in 2005. It should be noted that a women-only list ("By participating we can") stood, albeit unsuccessfully, in Hebron. The formation of such a list testifies nevertheless to the dynamism and commitment of Palestinian women as agents of change. Following these local elections, 21.1% of councillors were women and a woman was elected mayor of Bethlehem.

7. Palestinian women have a crucial role to play in the peace negotiations and the building of a Palestinian State. They are highly committed and active, as reflected in the large number of women's organisations, such as the Women's Centre for Legal Aid and Counselling (WCLAC), the Women's Affairs Technical Committee (WATC) and the Women's Affairs Centre (WAC), and contribute greatly to Palestine's image abroad. Yet they are still only marginally represented in key decision-making posts. In this connection, the decision by the Palestinian Government in 2012 to set up an independent high commission to implement United Nations Security Council Resolution 1325 (2000) on women, peace and security represents a positive development as it provides the impetus for greater participation by women in the process of national reconciliation and the political negotiations with Israel.

3. Fighting all forms of discrimination (in law and in practice) based on gender; ensuring effective equality between women and men, including as regards marriage, divorce, polygamy and inheritance law and, where necessary, initiating a process of legislative revision (commitment undertaken by the Palestinian National Council, paragraph 12.5 of Resolution 1830 (2011))

8. I would like to take this opportunity to express my admiration for the courage of Palestinian women, who have been pioneers in the fight to liberate the Palestinian territories, but who are subject to multiple forms of discrimination and violence.

9. The principles of equality and non-discrimination are enshrined in the Palestinian Basic Law (Article 9), but this text also provides that the principles of Islamic Shari'a shall be a principal source of legislation (Article 4), which can be interpreted as undermining women's rights, particularly in the field of family law. Moreover, the fragmentation of the Palestinian legal system exacerbates the discrimination faced by women as it prevents them from enjoying the same rights in all Palestinian territories. Indeed, the personal status rules applicable to women vary according to whether they live in the West Bank or in Gaza and depending on the religious group to which they belong, and are implemented by religious courts (Shari'a courts for Muslims, other religious courts for Christians). Similarly, the fact that Palestine has no law on nationality creates

significant disparities between women according to their place of residence (Jerusalem, West Bank or Gaza) and means that old nationality codes (Jordanian in the West Bank and Egyptian in Gaza) which are highly discriminatory towards women are still applied to them.

10. The personal status of women remains a source of serious concern and there has been no significant improvement since October 2011. As pointed out by Mr Kox in his report, Palestine lacks an effective legislative power at present. This state of affairs makes it impossible for family law to be harmonised and brought into line with international standards, especially those contained in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Palestinian National Authority's unilateral acceptance of CEDAW in March 2009 has strong symbolic value, but must be translated in practice into measures to promote equality of rights between women and men. Yet serious inequalities remain with regard to marriage, divorce, inheritance and custody of children.[2]

11. The overall employment situation in Palestine is also critical, with 23% of the working population unemployed. Women in particular suffer from the high unemployment rate. The employment rate for women stood at around 15.2% in 2012, while, according to World Bank figures, female unemployment rose from 23.8% in 2008 to 32.9% in 2012. Resolute measures should be taken to encourage women's access to the employment market, be it the private market or public administration.

4. Fighting all forms of gender-based violence (commitment undertaken by the Palestinian National Council, paragraph 12.5 of Resolution 1830 (2011))

12. The figures for violence towards women remain extremely alarming. A National Strategy to Combat Violence against Women 2011-2019 was drawn up by the Ministry of Women's Affairs and adopted by the Palestinian Government in January 2011. It identifies culture, norms and traditions as the main factors in violence against women in Palestinian society, patriarchal culture being an important parameter in this regard. Furthermore, the political and economic situation in Palestine exacerbates the climate of violence, which finds an outlet in violence against women.

13. In a 2012 report, the Palestinian Central Bureau of Statistics found that 37% of married women were exposed to violence in Palestine as a whole. In the Gaza Strip, one in every two married women was affected. According to the report, two thirds of women subject to violence prefer not to say anything. The reporting of acts of violence is perceived in society as being shameful and unacceptable, particularly when these acts are committed by family members. In Gaza, moreover, it was found that the police were reluctant to register complaints and sought above all to reconcile couples so that they would not get divorced.[3] Furthermore, shelters for abused women are sorely lacking in Palestine: there are none in the Gaza Strip and only three in the West Bank. It follows that women are not encouraged to report acts of violence against them. Women's economic dependence is another obstacle to the reporting of acts of violence. One positive development, however, is the approval by the Palestinian Government in February 2013 of a referral system for abused women to improve the delivery of legal, social and health services.

14. So-called "honour" crimes increased in 2013 with 27 reported cases, over two thirds of which were committed in the West Bank.[4] They are a sign of a patriarchal society founded on discrimination against women. Being committed by members of the family unit, few of these crimes are reported, which contributes to a sense of impunity on the part of those responsible. I can only join with the Palestinian Independent Commission for Human Rights in calling on the Palestinian authorities to take without delay the necessary measures to protect women from these acts, prosecute the perpetrators and prevent the commission of such crimes by imposing sentences commensurate with the gravity of the offences. It is unacceptable that the legislation in force allows murders to be justified on the grounds of "family honour", thus reducing the prison sentences handed down. The draft Criminal Code drawn up in 2010-2011 under the aegis of the Ministry of Justice by a group of governmental and non-governmental organisations dispenses with the notion of "family honour", but it has not been formally adopted and promulgated. It should be noted that the draft Criminal Code contains many other advances in women's rights: for example, it criminalises sexual harassment and

2. For a detailed analysis, see Independent Commission for Human Rights, The status of human rights in Palestine, 18th annual report, 2012; Reem Al-Botmeh, A review of Palestinian legislation from a women's rights perspective, March 2012; Suheir Azzouni, "Palestine", in Women's Rights in the Middle East and North Africa: Progress amid Resistance, ed. Sanja Kelly and Julia Breslin, 2010.

3. Rasha Abou Jalal, "Domestic Violence against Palestinian Women on Rise in Gaza", Al-Monitor, 5 September 2013.

4. Independent Commission for Human Rights, Declarations No. 3/2013 of 7 March 2013 and No. 11/2013 of 23 September 2013; Noah Browning, "Palestinians see worrisome trend in 'honor' killings rise", Reuters, 11 December 2013.

domestic violence, introduces fines for marriages contracted before the age of 18 without the permission of a judge and the minor's legal guardian and introduces a minimum prison sentence of five years for murder. It is regrettable, however, that this text also provides for a reduced sentence for murder committed after the discovery of an adulterous relationship and criminalises consenting sexual relations between unmarried adults.

15. I also welcome the fact that the Palestinian National Council's delegation to the Parliamentary Assembly is represented within the Parliamentary Network "Women Free from Violence". The active participation of Ms Najat Alastal testifies to the Palestinian National Council's commitment to combat violence against women and gives tangible expression to the Palestinian authorities' efforts in this field.

5. Fighting racism, xenophobia and all forms of discrimination (commitment undertaken by the Palestinian National Council, paragraph 12.14 of Resolution 1830 (2011))

16. Given the committee's terms of reference and the commitment by the Palestinian National Council to fight racism, xenophobia and all forms of discrimination, I would like to address the situation of persons with disabilities, who account for a significant proportion of the Palestinian population. A study carried out in 2011 by the Palestinian Central Bureau of Statistics and the Ministry of Social Affairs shows that, based on a broad definition of disability (a few or several difficulties), the prevalence rate is 7% in Palestine.

17. A legal framework protecting the rights of persons with disabilities exists in Palestine. The Basic Law prohibits all discrimination based, *inter alia*, on disability (Article 9) and stipulates that the Palestinian Authority must guarantee education, health and social protection to persons with disabilities (Article 22). Moreover, a 1999 law (No. 4) on the rights of persons with disabilities provides that they have the right to a free and decent life and to all services on an equal footing with other citizens.

18. However, the 2012 report of the Palestinian Independent Commission for Human Rights notes that the issue of disability is not included in the strategies and plans of governmental and private organisations. In the absence of any quota, access by persons with disabilities to the employment market remains limited, and persons with disabilities who do work often have menial jobs and are faced with negative attitudes from colleagues.

19. I therefore welcome the government's decision to reactivate the Supreme Council of Disability to implement the 1999 law and the announcement by the Ministry of Social Affairs of the drawing up of a strategic framework on disability issues which will no longer be founded on a social or humanitarian approach but on a human rights-based approach.

20. I strongly encourage the Palestinian authorities to use the United Nations Convention on the Rights of Persons with Disabilities as a frame of reference in order to bring their legislation and practice into line with the relevant international standards and counter the generally negative perception of disability in Palestine. I wish to stress that the social integration of persons with disabilities is not the responsibility of government alone, but of society as a whole and the individuals of which it is composed.

6. Conclusions of the rapporteur

21. I welcome the efforts of the Palestinian authorities, who continue to demonstrate their commitment to defending equality between women and men and improving the status of women in Palestine. The political and legal situation makes it difficult to achieve real progress, but the will to advance towards a democratic and inclusive society clearly still remains. For this reason, I endorse the recommendation by Mr Kox to maintain the partnership for democracy with the Palestinian National Council and to conduct another evaluation in two years' time.

22. I also wish to reiterate the opinion expressed by the Committee on Equality and Non-Discrimination in 2011 that obtaining partnership for democracy status is not an end in itself, but the beginning of a process. The Palestinian authorities should enlist the expertise of the Council of Europe in order to bring the legal rules applicable in Palestine fully into line with human rights standards, particularly as regards equality between women and men and protecting women against violence. Key Council of Europe conventions such as the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210) could serve as reference instruments in the context of technical assistance provided by the Council of Europe.